

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF ADA	)	APPEAL NO. 07-A-2455
COUNTY ASSESSOR from the decision of the	)	<b>SUBSTITUTED</b>
Board of Equalization of Ada County for tax	)	FINAL DECISION
year 2007.	)	AND ORDER

**HOMESITE APPEAL**

THIS MATTER came on for hearing November 20, 2007, in Boise, before Hearing Officer Steven Wallace. Board Members Lyle R. Cobbs, Linda S. Pike and David E. Kinghorn participated in this decision. Ada County Chief Deputy Assessor Tim Tallman and County Appraiser Tina Winchester appeared at hearing for the Appellant Assessor. Trustee Barry Peters appeared for Respondent Peters Family Living Trust, the parcel owner and taxpayer. This appeal is taken from a decision of the Ada County Board of Equalization (BOE) modifying the protest of the valuation for taxing purposes of property described as Parcel No. S0517325520.

**The issue on appeal is the proper assessment of a homesite on an agricultural land parcel. Idaho Code §§ 63-602K, 63-604.**

**The decision of the Ada County Board of Equalization is reversed.**

FINDINGS OF FACT

The subject property is 7.48 acres improved with a residence and private lake (pond) feature. Access from public streets is by private easement. Subject is served by few outside utilities. A portion of the parcel's land has been leased for the grazing of cattle during the last two years. The Assessor's Office determined the potential grazing land totaled 3.98 acres. Something less than this was actually put to grazing use. The remaining land (3.5 acres) is covered by the pond or dedicated to another personal or residential use.

The BOE assessed the residential homesite for \$350,000. Un-appealed residential

improvements remained at \$302,500, and the partially exempt grazing land was assessed for \$2,900. Therefore, BOE found the total value for the subject parcel was \$655,400. The Assessor's original determination of a "3.5-acre" homesite size determination was not modified. It is believed the original taxpayer protest included a challenge to homesite acreage.

On appeal to this Board, Appellant Assessor contended the homesite assessment should be raised to \$650,000 in recognition of the site's unique and desirable features including a private pond and immediate and distant views. The pond and landscaping are explained to influence the residence's value, i.e. they directly impact the value of the homesite. The pond and landscape areas are not grazed. It is therefore contended the associated land is properly included within homesite acreage. The Assessor does not dispute any other portion of the assessment. Thus, according to the Assessor the total parcel valuation, before application of the homeowner's exemption (HOE), should be increased to \$955,400.

Respondent taxpayer defends the BOE's reduced homesite value on equalization and other legal grounds while contending the value should be reduced further. Specifically taxpayer argues: 1) Property Tax Administrative Rule 645 – outlining homesite assessment – illegally "modifies" the agricultural exemption statutes and thus the rule is invalid and without power; 2) given a finding that Rule 645 is valid, subject's homesite area should not include the pond and landscaping and a smaller size determination would result in a smaller market valuation, and 3) any subject homesite assessment must be equitable with other county homesite assessments.

On taxpayer's first point, it is claimed only in Idaho Code § 63-604 is homesite mentioned in connection with the agricultural exemption in Idaho Code § 63-602K. In Section 63-604 there is no reference to assessing the homesite separately from, and on a different basis than, the agriculturally used ground. It is argued the homesite must therefore be valued on the same basis

as the grazing land. If the parcel's total land area (7.48 acres) was assessed as grazing land, with no separate assessment for the homesite, the land assessment would total \$5,445. Adding the unchallenged improvement value provides a total parcel value of \$307,945 (before HOE).

On the second point, it is contended Rule 645 provides an exhaustive 5-element list of site improvements to include in any homesite valuation. Where a pond feature and landscaping are not present, Respondent taxpayer contends they must not be included with the homesite, thus yielding for subject a homesite size of one-third to one-half acre. The Assessor counters the agricultural land exemption is a "use exemption" and the land must be *used* as outlined in Section 63-604 to qualify for exempt treatment.

The last point on equity is most consistent with the grounds relied on by the BOE in reducing subject's homesite value. Assessments on other homesites were compared to subject's. Where a super-majority were assessed for less, it is argued equitable treatment requires a value near the median of all homesite assessments in the county or closer to the median of those assessments in closer proximity to subject. Such averaging of assessments suggests a homesite value of \$100,000 (county-wide) to \$150,000 (nearer subject.) The Assessor noted no sales were in record to support this value position and subject's homesite features were unique and highly desirable and not representative of an average homesite in the county.

The Assessor presented comparable land sales from subject's immediate area and sales from the broader Eagle area to support the \$650,000 homesite claim. The most immediate sales are presented below and were situated on the same pond as subject or in one instance adjacent to one of the pond properties. Comparable No. 1 was offered as the most similar to subject and is adjacent to subject on its North side.

<u>Comparable</u>	<u>Price</u>	<u>Date</u>	<u>Acreage/Comment</u>
1	\$699,000	07/2006	5.015 acres, pond frontage
2	\$860,000	02/2005	10 acres, pond frontage
3	\$490,000	10/2005	5 acres, no pond feature

An analysis of average sale prices throughout the County was also presented by the Assessor. Among other statistics, the median single-family existing home price in 2006 increased about 19% over the prior year. First quarter sales in 2007 indicated, on a like-basis, an almost flat rate of change.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

This appeal centers on the correct assessment of a residential homesite. The homesite is situated on a 7.48-acre parcel where a lessee grazing use occurs that is consistent with the definition of "land actively devoted to agriculture." Idaho Code §§ 63-602K(2), 63-604(1)(a). Thus the parcel does qualify for an agricultural exemption grant due to the qualifying grazing use.

The tax code provides "All property . . . not expressly exempted, is subject to appraisal, assessment and property taxation." Section 63-203, I.C. Such annual appraisal and assessment is under a market value standard. Section 63-205, I.C. These are fundamental premises and statutes. In administering exemptions, Chapter 6 of Title 63, the statutory language is afforded its ordinary meaning and will be strictly construed. *Roeder Holdings, LLC v. BOE of Ada County*, 136 Idaho 809, 41 P.3d 237 (2001). The agricultural exemption provides that "land actively devoted (used) . . . for grazing purposes" qualifies for the speculative value

exemption. Deciding this appeal need not consider the validity of the challenged sections within Property Tax Rule 645. In considering and applying the exemption case law to the instant case, the agricultural exemption is properly characterized as a use exemption. Any ownership element that may pertain to this case is not in dispute.

Our decision on the homesite issue starts with the understanding that a homesite is real property and thus taxable unless expressly exempted. We find the land associated with BOE's 3.5-acre homesite determination was not grazed in any fashion. The Board holds only land "actively devoted", which means here "leased by the owner to a bona fide lessee for grazing purposes", qualifies for the special assessment treatment. The County determination of the actual grazing land seems generous, and from the record, certainly is not understated. The residence's direct footprint and the associated personal-use (residential use) lands were not leased and used for livestock grazing. Therefore all the other property not leased and grazed is fully taxable unless otherwise expressly exempted.

There is no homesite exemption statute. However see Idaho Code § 63-602GG for the homeowner's (homestead) exemption that now includes surrounding land not exceeding one acre. The homestead exemption has certain specified requirements and is subject to a dollar limitation. See also Section 63-701(2), I.C. The parties have not raised an issue in relation to this exemption.

In summary, the question is not whether or how much homesite to carve out from the total parcel. The issue is how much "exempt land" to subtract from the total parcel acreage. The starting premise is that all property is taxable pursuant to property tax statutes. The County is found to have fairly and reasonably determined the land area that should be granted exemption. The remaining land and improvements should be appraised and assessed under the market

value standard.

Appellant and Respondent contend the homesite value is in error. We find taxpayer's equity claim is not persuasive. Different homesites with widely differing attributes, clearly would have different values. To assess taxable property on the average of assessed values derived from a broad property group – with no reference to likely selling price, is not fair or equitable. There was no demonstration the subject homesite was assessed at a materially different assessment level than other like homesites. No equity adjustment is warranted.

Regarding the market value of the 3.5-acre homesite we do find the BOE value in error. The best evidence of subject's market value is found in the immediate land sales which reflect highly similar property characteristics. Most similar were the two sales with the pond feature. Unfortunately, the County did not present a detailed analysis of these sales through a sales comparison grid. With both parties challenging the BOE homesite assessment, the Board found it necessary to fill in the blank. The record demonstrates land size in subject's immediate location is an important value factor, larger sites selling for more than similar smaller sites. Time of sale is also clearly indicated to affect sale price.

One of the two pond sales was more similar in size to subject homesite at roughly five acres and transpired more closely to the January 1, 2007 assessment date. Section 63-205, I.C. The sale price was \$699,000. The County and this Board consider this the best comparable sale and with due adjustment, the best evidence of market value. First, the sale price for the roughly five acres should be adjusted slightly up for the "time of sale" to \$735,000. Next, an adjustment can be considered for the difference in land size, i.e. 3.5 acres for the subject homesite versus 5.015 acres for the sale property.

The Board estimated a time-adjusted selling price for the 10-acre pond sale to be

\$1,090,000 indicating a \$355,000 size premium over the 5-acre sale ( $1,090,000 - 735,000 = 355,000$ ). This premium divided by the size difference indicated \$71,000 per acre ( $355,000 / 5.015 = 71,000$  rounded.) Economy of scale would suggest the rate per acre might be somewhat more on a smaller size unit. Subject homesite is 1.515 acres less than the best comparable. This supports a negative size adjustment of \$107,565 ( $1.515 \times 71,000$ ) or perhaps a little more. Subtracting the size adjustment from the time-adjusted best comparable sale price yields \$627,435 ( $735,000 - 107,565$ ).

The Assessor originally placed a value of \$650,000 on the 3.5-acre subject homesite. The Board's review of the price evidence in record found the BOE value of \$300,000 was not supported by market sales and therefore not in compliance with the market value standard. The Board did consider the other comparable sale information provided by the Assessor and not just the "best" sale discussed above. The Appellant Assessor's \$650,000 homesite value is well supported by a preponderance of the evidence. Taxpayer's claim for relief on equity grounds was not warranted by the evidence in record. Therefore the decision of the Ada County Board of Equalization will be reversed in favor of Appellant-Assessor.

#### FINAL ORDER

IT IS ORDERED the Board's Final Decision and Order in this matter, dated February 1, 2008, be WITHDRAWN.

In accordance with this Substituted Final Decision, IT IS FURTHER ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, REVERSED to reflect an increase in the 3.5-acre homesite value to \$650,000.

MAILED FEBRUARY 4, 2008